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THE FIRST COURT OF
QUARTER-SESSIONS
Of the P E A C E,

HELD AT QUEBEC, IN October 1764.

His Worship the PRESIDENT'S Charge to the GRAND-JURY:

GENTLEMEN of the *Grand-Jury*,

YOU, as the Body selected on this Occasion, for the District of the City of Quebec, are to enquire of whatever Things arise within the said District.

You are to enquire of all Felonies, Trespasses, Forestallings, Regratings, In-crossings and Extortions of every Sort whatsoever, and all and singular of other Crimes and Offences, Misdemeanours, or Pleas of the Crown, which may be given you in Charge, or which you may know of your own Knowledge, and to make true Presentments to us His Majesty's Justices of the Peace for the said District, in Order that they may be punished according to the several Laws, as in such Cases may be provided.

You are also to present all Things that are publick Nuisances, of every Sort which are given you in Charge, or that you may know of from your own Knowledge, in order that the same may be redressed: And also of all Incroachments or Stoppages on the several High-ways, Streets, or publick Roads, and also of what Roads are proper for Repair, and are so impassable as to endanger the Lives of His Majesty's Subjects.

You are also to make Presentment of all Vagabonds, and Persons of no visible Way of Livelihood, whereby His Majesty's Subjects may be endangered in their Lives and Property, so that such Persons may be brought to condign Punishment.

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Upon any Indictment which may be sent up to you upon any Offence, you must either return it a true Bill, or reject it; for you cannot find it a true Bill on one Part, and a false Bill in another Part: By your Oath you are sworn to "Deligently enquire, and true Presentment make of all Things, which shall be given you in Charge; and that you shall keep the Secrets of His Majesty, your Brother Jurors, and your own; and that you shall present no one thro' Malice, Envy, or Hatred; neither shall you leave one un-presented for any Reward, Favour or Affection:" By which the utmost Latitude is given to you for the redressing of Grievances of whatever Kind or Nature, without the least Room for Reflection, from any Person who may think themselves aggrieved by your Conduct; so that if you act consonant to your own Consciences, and agreeable to the Evidence that shall be laid before you, or may come within your own Knowledge, you will fully discharge the Duty of your Office.

There is one Thing I must observe to you Gentlemen, That in any Case that may come, or may be laid before you, you must not attend to any Evidence but on Behalf of the Crown.

As we are but an Infant Colony, I would beg leave to recommend it to your Considerations, by every Means in your Power, to discourage any Advances towards the Disturbance of the Publick or Individuals, either by personal Inveective or general Calumny, either reduced to writing, or verbal, as the promoting of such Things serves for no other Purpose than to weaken the Community, and to render us contemptible in the Eyes of our so lately acquired fellow Subjects.

We have ordered the Clerk of the Peace to lay before you all Matters proper for your Cognizance, and we make no Manner of Doubt but you will acquit yourselves in every Matter which will be laid before you, with that Integrity and Disinterestedness which are the Characteristicks of honest Men and good Subjects.

PRESENTMENTS of October Sessions, made at a Continuation thereof by Adjournment, held at the Session-house in the City of Quebec, 16th October, 1764, by the GRAND-JURY, in and for the said District.

THE great Number of inferior Courts, established in this Province, with an Intention to administer Justice, are tiresome, litigious, and expensive to this poor Colony, as they very often must be attended with the disagreeable Necessity of Appeals, and of Course of many exhorbitant Fees.

2 The great Number appointed Justices of the Peace, out of so few Men of Character, legally qualified, and fit to be trusted with the Liberty and Property of

of His Majesty's Subjects, to serve their Country as Jurors, is Burthenfome, and not practised in other Infant Colonies like this.

It can answer no good End to waste Men's Time in attending upon Courts where no Man upon the Bench is qualified to explain the Laws, and sum up the Evidences to the Jury, to prevent its being misled by the Barristers.

That in the Southern Colonies, when Men qualified to serve the Publick are scarce, then are no Juries called but when the Chief Justice of the Province presides; therefore, neither the Lives nor Liberty of His Majesty's Subjects, nor any Property above the Value of *Three Pounds* Sterling, are left finally to the Decision of the Justices of the Peace: And for the easy and speedy Dispatch of Justice, there are annually held three Courts of Common-pleas, and two of Sessions or Assizes, when Juries are summoned in Rotation for the different Parts of the Province, and returned by Ballot; yet we are of Opinion, from the present State of this Colony, it would be reasonable to authorize any three of His Majesty's Justices of the Peace finally to decide the Fate of any Sum not exceeding *Ten Pounds*, without either Jury or Appeal.

It is a very great Grievance that the Market-places are converted into Huts, Stalls, &c. for Nurseries of Idlers, who would out of Necessity be employed in several Branches of Industry, such as fishing, farming, &c. if not permitted, contrary to good Policy, to occupy and infest the publick Grounds.

Giving away, and turning the King's Batteries, Docks and Wharfs into private Property, or suffering them to be so occupied, are great Grievances to the Inhabitants of this Province.

We recommend the Exertion of the Laws of the Mother Country for the due Observance of the Sabbath, that the same may no longer be profaned by selling, buying, keeping open Shops, Balls, Routs, Gaming, or any other idle Diversions; for the better accomplishment of which, a learned Clergy-man, of a moral and exemplary Life, qualified to preach the Gospel in its primitive Purity, in both Languages, would be absolutely necessary.

An Ordinance, passed by the Governor and Council, confirming and rendering valid all Decrees of the different Military Councils erected in this Province, before the Establishment of Civil Law, may be amended, by allowing an Appeal to any of the Civil Courts, if the Cause, decided in any of the Military Courts, exceed the Sum of *Ten Pounds*.

The Ordinance, made by the Governor and Council, for establishing Courts of Judicature in this Province, is grievous, and some Clauses of it we apprehend to be unconstitutional, therefore it ought forthwith to be amended, to prevent His Majesty's Subjects being aggrieved any longer thereby.

Proper Regulations regarding the Measurement and Quality of Fire-wood are necessary, as well as the following Particulars, viz.

For regulating Carts and Carriages of every Kind.

For clearing and keeping clean the publick Streets, Docks and Landing-Places.

For sweeping Chimneys to prevent Accidents by Fire.

For establishing a publick Protestant School, and a Poor-House.

For suppressing Gaming Houses, in particular that of the *Quebec Arms*, kept by *John King* in the Lower Town, which we are informed has been very particularly countenanced, and which we present from our own Knowledge as a notorious Neufance, and prejudicial to the Industry and Trade of this City.

Also for preventing for the future any Abuses arising from, and for the amending of, that well-intended Order for carrying Lanthorns in the Night Time, that regular People going about their lawful Business, without giving Disturbance to the public Quiet, may not be liable to Imprisonment by Centry, Sergeant or Officer.

As the Grand-Jury must be considered at present as the only Body representative of the Colony, they, as *British* Subjects, have a Right to be consulted before any Ordinance affecting the Body they represent be passed into a Law: And as it must happen that Taxes be levied for the necessary Expences and Improvement of the Colony, in Order to prevent all Abuses and Embezzlements, or wrong Application of the public Money, we propose that the public Accounts be laid before the Grand-Jury at least twice a Year, to be examined and checked by them; and that they be regularly settled every six Months before the Jury for the Time being, which Practice strictly adhered to will very much prevent the Abuses and Confusions so common in these Cases.

From the Sense of the Nature of Oaths administered to Juries, as also the Consequences of the Matters that may occur for Discussion, We, in Justice to ourselves and to our Fellow-subjects, are resolved never more to sit as Jurors at any Court where a Man sufficiently versed in the Law does not preside.

Subscribed and delivered into the Court of Quarter-Sessions the 20th of October, 1764, by the following Persons, Grand-Jurors for the District of Quebec.

James Johnston, Foreman, Alexandre Mackenzie, Peter Fancuil, Thomas Story, Thomas Aylwin, Edward Watts, Daniel Bayne, Samuel Sills, Samuel Duncan, John Lymburner, George Fulton, John Danfer, Gilbert M^r Randale, Philip Payn, Amiot, A. Dumas, Charest, Tachét, Boisseau, Perrault, Poncy, Dumont.

AMONG the many Grievances which require Redress, this seems not to be the least: That Persons professing the Religion of the Church of *Rome*, do acknowledge the Supremacy and Jurisdiction of the Pope, and admit Bulls, Briefs, Absolutions, &c. from that See, as Acts binding on their Consciences,

sciences, have been impannelled on Grand and Petty-Juries, even where two Protestants were Parties : And whereas the Grand Inquest of a County, City or Borough of the Realm of *Great-Britain* are obliged by their Oath to present to a Court of Quarter-Sessions or Assizes, whatever appears an open Violation of the Laws and Statutes of the Realm, any Neufance to the Subject, or Danger to His Majesty's Crown and Dignity, and Security of his Dominions : We therefore believe nothing can be more dangerous to the latter, than admitting such Persons to be sworn on Juries who by the Law are disabled from holding any Office, Trust or Power, more especially in a judicial Capacity, with Respect to which above all other the Security of His Majesty as to the Possession of his Dominions, and of the Subject, as to his Liberty, Property and Conscience, is most eminently concerned. By the Definitive Treaty the *Roman Religion* was only tolerated in the Province of *Quebec* so far as the Laws of *Great-Britain* admit.

It was and is enacted by the III. *James*, Chap. v. Sec. 8. " No Papist or " Popish Recusant Convict shall practise the Common Law as a Counsellor, " Clerk, Attorney or Solicitor, or shall practise the Civil Law as Advocat or " Proctor, nor practise Physick; nor be an Apothicary, nor be a Judge, Minister, Clerk or Steward of or in any Court, or keep any Court, nor shall " be Register or Town Clerk, or other Minister or Officer in any Court; nor " shall bear any Office or Charge as Captain, Lieutenant, Sergeant, Corporal " or Antient Bearer in any Company of Soldiers; nor shall be Capitain, Master, " Governor, or bear any Office of Charge of or in any Ship, Cattle or Fortrefs, " but be utterly disabled for the same : And every Person offending herein shall " forfeit One Hundred Pounds, Half to the King, and Half to him that shall " sue for the same." We therefore believe admitting Persons of the *Roman Religion* who own the Authority, Supremacy and Jurisdiction of the Church of *Rome* as Jurors, is an open Violation of our most sacred Laws and Liberty, and tending to the utter Subversion of the Protestant Religion, and His Majesty's Power, Authority, Right and Possession of the Province to which we belong.

So many Gentlemen of the Army, and in actual Service, exercising any judicial Authority is unconstitutional; nothing but Necessity by the Want of a sufficient Number of Subjects qualified for the Purpose can excuse even in a new Country such unwarrantable Encroachment on the established Maxims of the *British Government*.

The foregoing Representations of Grievances, Abuses and Neufances, We, the Grand-Jurors of the District of *Quebec*, believe it our indispensable Duty to make, from the Nature of our Oath and Charge, and from the Informations

presented

presented to us, as well as what occurs to our own Observations, and do strongly recommend the same for Redress to all those, who, by their sacred Oath, are bound to redress them.

Signed and delivered by all the Protestant Members then present, the 20th of October, 1764.

James Johnston, *Foreman*, Alexander Mackenzie, Peter Faneuil, Thomas Story, Thomas Alywin, Edward Watts, Daniel Bayne, Samuel Sills, Samuel Duncan, John Lymburner, George Fulton, John Danfer, Gilbert M^r Randale, Philip Payn, A. Dumas.

Strictures on the foregoing Presentments.

WE His Majesty's J. P. for the District of *Quebec*, having maturely considered the Contents of a Writing delivered to us in our Court of Q. S. on *Saturday* last; under the Title of Presentments of the G. J. and read in open Court, are sorry to find it our indispensable Duty, not only to reject many Articles thereof as highly improper, assuming, and of the most pernicious Tendency, but also to manifest in the Face of the Publick our Disapprobation of the Spirit and Manner in which the whole seems to be conceived.— We think it the more our Duty, at this Time when the Eyes of the Province are immediately turned on the Proceedings of its first G. J. tho' no more than the G. J. of a Q. S. of the Peace.

When we find that the Publick, which expected to see wholesome Remedies proposed for real; tho' little Defects in our infant Police, the proper Objects of Attention for such a G. J. disappointed, and amused with imaginary Grievances which it never felt, and with the Reveries of the heated Imaginations of Men who are preposterously transplanting the Ideas of Milinarions into the Minds of *Canadians*, and tearing up the Roots of all Principle of Obedience and Submission to publick Authority from the Hearts of our new Fellow-subjects.

If these Gentlemen, led away by mistaken Zeal, assume a Character above their Sphere, and propose themselves to the Publick as its Legislature, it can in no Ways be imputed to Neglect on the Part of the Bench; the Objects of their present Attention were clearly and fully pointed out to them from this Chair. It was not indeed at that Time thought necessary to give in the Charge that Part of the Church Catechisme which reminds us of Duty towards our Neighbours, particularly of the very essential Part of it, "Respect and Submission to our Superiours."

The Piece now before us (for Form of Presentments, has been entirely forgot or neglected) this Piece, I say, deserves a Treatment very different from what

This was delivered by Samuel Gridley

what we are going to give it, to wit, that of condescending to read it a second Time in this Court.

In doing this we hope to shew, that Moderation which becomes Magistrates, and that Zeal for the Publick (detached from all private Views) which should guide every good Member of Society.

For at the same Time that we condemn, what certainly deserves Condemnation, we shall be far from rejecting any Particulars in it which may seem to conduce to the publick Good, how ill soever recommended by the Dress and Company into which they are put in this angry Remonstrance.

We are at the same Time sensible, that in doing so we needlessly anticipate the Governor and Council, who are now doing (what we would recommend to you, Gentlemen of the Jury, for the future when you shall have any Thing to offer to the Publick) coolly and deliberately, considering Laws which may for a Succession of Years bind his Majesty's good Subjects of this Province.

Mr. Clerk of the Peace, you'll proceed to read them, and I shall make a few brief Strictures at the most pointed Articles, just to make known to the Publick mine and my Brethren's Sentiments on them.

ARTICLE I. There are fewer Courts in Proportion than in any other Province; and no more we believe, than such as were ordered to be established from Home: We profess we are not so clear sighted as to foresee any more dismal Consequences from them here than in any other Part of His Majesty's Dominions where they are thought necessary. The Government is in this Article obliged to the G. J. for allowing it the Intention of administering Justice.

II. They are as much mistaken in this perplexed Article as in the former; the Number of Justices is far short of the Proportion in other Provinces, to my Knowledge.

But Men will always run into Error and Absurdity in speaking, when they do not fix precise Ideas of the Terms they use; the Words INFANT COLONY hath here been the Stumbling Block. If we mean only the British Inhabitants, or Introduction of the British Laws, they are properly enough applied; but surely the G. J. will allow there is a large Field for the Labour of Justices amongst the Natives; if these be regarded, this is not an Infant Colony, but a respectable Province, and as such, requires, we believe, many more Justices, COULD PROPER PERSONS BE FOUND: We shall soon hear the G. J. intimate as much themselves.

III. We have Reason to believe these Gentlemen of the G. J. have not often attended Quarter-Sessions of the Peace at Home, else they would have seen the Bench filled as this is, with Persons who neither professed or arrogated any profound Knowledge in the Law.

We

We are now giving the G. J. a Proof of, That however Juries may be, We are not so easily misled.

IV. We own ourselves at a Loss to know what the G. J. would be at consistently with what they before advanced. Then they were for reducing the Number of Justices, now they are for giving them more Business, and of Course would make an additional Number requisite, we would beg to be informed in what Part of *Canada* three Justices can be found together (*Quebec* and *Montreal* excepted.) The Legislature wisely foresaw this, and have left the Fate of any Sum not exceeding Ten Pounds to be decided by Two. For this we refer them to the Ordinance of *October* 4th.

V. A good and proper Presentment, especially in Regard to the Idlers.

VI. We are greatly misinformed if some of those Batteries, Docks, or Wharfs were not strongly solicited for by the Foreman himself, to be his private Property, and if strong Representations were not made by him, how useless the Ground was likely to remain if not made private Property.

VII. We also recommend the Exertion of the Laws of our Mother Country as far as the Legislature of this Province shall see them consistent with the present Circumstance of the Province, and sincerely desire to promote a due Observance of the Sabbath, and would be glad to encourage more than one such Gospel Minister as they describe, for the Gospel is a Gospel of Peace, and teaches Good-will towards Men.

VIII. If they are resolved to persevere in their present Spirit, their fellow Subjects are much obliged to them; but we must put the G. J. in Mind of summoning them again: We shall be under the Necessity of fining those who absent themselves; we have the greatest Tenderness for scrupulous Consciences.

But we really think Men must have a strange Sense of the Nature of *Jurors Oaths*, who think those Jurors answerable for the Ignorance of a Bench.

IX. If we were at a Loss before, to know in what Character these Gentlemen were pleased to speak, and what Pretensions they have to be exempted from serving as Jurors, they now give us full Information, and announce to us that we must consider them as the Representatives of the WHOLE PROVINCE, and that they have a *Right* to be consulted before any general Ordinances are passed into a Law. Now we dare tell this self-constituted Part of the Legislature, that we must not consider the G. J. of the Quarter-Sessions of one District as such, and hope present G. J. may never be consulted, except in choosing Church-Wardens; neither can we conceive how a few Inhabitants, some newly arrived, can have either Influence, Interest in, or Knowledge of the Province, sufficient to consider themselves, or to be considered as its Representative.

X. We

X. We wonder they have been so modest, as only to propose, after telling us in what Light we *Must* consider them, we may have expected to hear them Order the Accounts to be laid before them.

XI. Here the G. J. have forgot their lately profess'd Love for their fellow Subjects; and instead of quieting them in their Possessions (which the Legislature of this Province has wisely intended by this Ordinance) would plunge them in the just now dreaded abyss of Appeals.

XII. While the G. J. were content with their imaginary Seats in the House of Commons, we were able to understand them, but now they chuse to Quixote here, if we were able, we certainly are very unwilling, out of Regard to what may possibly be well intended.

XIII. These are very good Articles.—We should however been more obliged to the G. J. if out of their great Skill and Knowledge, in those Matters they had particularized some of the best Methods to be taken; but we believe there will be no Occasion, the Council has those Regulations actually under their Consideration.

XIV. They are right here to; but we are sorry they make this Presentment from their own Knowledge.

XV. This is putting Things in their proper Channel: We too would be glad to have this Order altered, as far as the Governor shall find consistent with the Safety of the Garrison.

The Grand-Jury need not have gone so far back as the Times of *James* the First for a Popery Act: Had they been seeking a Law against Witchcraft, Incantations, Conjurations and Charms, it would have been proper to have turned over the Statutes of that Reign: We are surpris'd they did not recommend the famous Test Act, this has been deemed by many good Men not wholly proper in *England*, and would be attended by great Inconveniencies in other Parts of the *British* Empire, and particularly in this P. in its present Circumstances, as by it would be lost the Service of many good Subjects of different Persuasions, and the Weight of more burthensome Offices thrown on the Jurors themselves, than they seem either able or willing to bear.

How would People at a Distance, who read this Remonstrance, be surpris'd when they are told the whole Number of Gentlemen of the Army, and in actual Service, (amongst the greatest Number of Justices of the District of *Quebec*, just now complained of) amounts to ONE, and he legally qualified to serve as a Member of the House of Commons in his own Country.

We cannot suppose they have any Objections to the half-pay Officers, now settled with large landed Interest in the Province, without whom, or those in actual Service, qualified Persons are not to be found, except in *Quebec* and *Montreal*.

But Military Gentlemen, if they like, for the good of the Public, to continue in the Office, may make themselves very easy, for the Grand-Jury has not thought proper to produce any Statute to this Point; and we think it would be a Sort of Ingratitude to disqualify them in *Canada*, from Offices which they are thought capable of filling in *Britain*,

We hope the Governor and Council, whose Ordinances we are all bound to obey, think differently in this, as well as in most other of the Assertions, Proposals, Recommendations, Presentations and Representations of the G. J. Whenever the Government of *Great-Britain* thinks proper to have this Council aided or controuled we presume it will be done by a general Assembly.

The Gentlemen of the Grand-Jury should have remembered, that instead of the Representatives of the PROVINCE, they are only Grand-Jurors of the Q. Sessions of the District of *Quebec*, that their Presentments should be Denunciations drawn up in short Notes, of Offences inquirable in the Court whereunto they are presented: They should have thought of High-ways, and we should have been obliged to them; had they pointed out Means of remedying Defects and removing Neufances, had they confined themselves to this, they would at least have shown they were willing to aid and co-operate with the Justices for the publick Good; but we fear it was not in such a Spirit this Remonstrance was made.——We are far from imputing private Peak and Resentment to so many honest and worthy Fellow Subjects who compose this G. J. but we know that ill-formed Zeal will lead the best Intentioned astray, and that Want of Experience will subject the best Understanding to Mistakes, we therefore dismiss this misintituled Presentment; but beg Leave to acquaint the G. J. that we have the best Authority for declaring to the Public, that all those Articles, that can properly be called Presentments, are already the Subject of Ordinances, of which we may every Day expect a Publication, or are truly under the Consideration of the Council, for whose Thoughts upon them we think it will be decent for us and the G. J. to wait, especially as we hope they will soon have an Opportunity again of presenting any little Matters which the Council may overlook.

To conclude, tis our earnest Wish, that his Majesty's Old Subjects would, by their Example, recommend the wholesome Laws and Holy Religion of their Country, the most Christian like Means of propagating it: We hope the new Ones, sensible of the Advantages of living under those Laws, will continue to deserve the Blessings they enjoy, and which we are sure the Government intend to maintain them in. We hope no Party Distinctions, of Old and New Subjects, Civil or Military, will be heard; and that the only Contentions amongst all will be who shall best deserve the Protection of the Laws of England.

A true Copy, by WMS. CONYNGHAM, Clk. Peace.

Remarks

REMARKS upon the STRICTURES.

The Grand-Jury, for the October Sessions, of the District of Quebec, having exposed to the Public, the Charge given them by his WORSHIP the President; their own Presentments made to the Bench of Justices, and their Worships Strictures, or Remarks on said Presentments, now beg leave to subjoin the following Observations upon these Strictures.

THE learned and elaborate Preamble to these Strictures, seems composed with an Intention to vilify and depreciate the Grand-Jury; to represent their Ignorance and Insignificancy, and at the same Time the Importance of the Bench; to inculcate the ancient Doctrine of Passive-obedience and Non-resistance, and to inform the Jurors, notwithstanding their Oath, and the Charge given them by Mr. President (which the *Author* of the Strictures did not perhaps recollect) that there are certain Mysteries in the Police of this Province, so much above their Sphere, that tho' the Effects are felt to be grievous, they must not presume to represent them as such, or to require, far less to prescribe an Amendment. The Affectation of Wit, so apparent in the Preamble, and throughout the whole Strictures, must appear rather impertinent upon this Occasion; tho' it is confessed that the Presentments are destitute of Form, and injudiciously arranged, yet we hope in the Eyes of the Public, the Hurry with which they were committed to Paper, as well as the inexperience of most of the Members upon this first Grand-Jury, will in a great Measure excuse this. We should have been glad that their Worships had likewise made such Allowances, and espoused the Redress of any Grievances presented, which they found really hurtful to the Public, without displaying their Wit and Raillery, in such a wanton and unmeaning Manner, as to oblige the Members of the Grand-Jury, from a Regard to Truth, and their own Characters, to trouble the Public with Presentments or Strictures.

We must not upon any Account be supposed to accuse his Worship the President as the Composer of these Strictures, notwithstanding the significant Gestures with which they were by him pronounced, and the Symptoms of Approbation affected by some of his Brethren; we can hardly imagine that he, or the major Part of them, do entertain such Sentiments, or if they did, that they would express themselves in that Manner, to a Body of People upon their Oaths; and in other Respects not altogether despicable; but from whatever Source the Strictures are derived, is not at present the Affair in Question, as they were publicly pronounced in open Court, a Copy of them publicly demanded, and that Demand complied with: We just beg the Publick's Attention to the following Observations.

The first Article in the Strictures is ushered in with a very ungarded Assertion: We apprehend the Author would find it very difficult to prove that there are fewer Courts in this than in any other Province. It may certainly be hinted, without giving Offence, that in the present poor Situation of this Province, the most simple and least expensive Jurisdiction ought to be preferred. As such the Presentment in Question is meant, and the Grand-Jury are sorry to find themselves so grossly misunderstood, not only in this Article but the three following ones, in which the Author constitutes their Worthips Champions in their own Cause, as if the Presentment meant nothing but a Reflection against them.

It is agreed that Justices of the Peace are more numerous in some other Provinces, but here we are straitned for Jurors legally qualified, at least such as *British* Subjects in general will think so. The Public will no Doubt pay proper Attention to the Precise and formal Definition of the Words *Infant Colony*, which it seems may be treated in an ancient or infant Sense occasionally as Circumstances may present. It is likewise more than probable that the Author's Meaning is similar in the Expression immediately following of, *could proper Persons be found*, as it must be allowed that in one Sense there may, and in another there may not; for the Properties even of Bodies are not discovered immediately from the Body itself, but from the Relation that Body stands in to, or the Action produced upon it by some other Body; and we are of Opinion that from this Principle the whole Theory of *Propriety* may be deduced: But as these physical Subtilties may be thought out of Place here, we return to the Strictures.— It would appear that neither Justices nor Jury have had much Share in any Quarter Sessions before, and that a profound Knowledge in the Law cannot consistently be attributed to either.

Humanity subjects us all to Error and Mistake; Men owe to one another a mutual Forgiveness of this Frailty, till it is persisted in, and superior Light or Direction refused or contemned; it then becomes inexcusable in Persons in the highest Stations, from whom, as such, the worst and most general Mistakes may be expected.

What the Author of the Strictures observes, That except at *Quebec* and *Montreal*, three Justices of the Peace cannot be found together, is certainly just, tho' not literally so, for it is not impossible that three, yea four, may be found by Accident together in any given Part of this Province; but at the same Time if we mean the City of *Quebec* only, we must own it is plentifully provided.

ARTICLE V. This Stricture surpasses all the others for Brevity, and must be acknowledged to be rather laconic upon the Subject; to even hint at the Reasons for this, may be deemed presumptuous; we therefore leave the Public to their own Conjectures.— “ He that hath Eyes to see let him see.”

- VI. We are a little at a Loss to comprehend how this Anecdote concerning Mr. *Johnston* should be brought in as an Answer to the Grand-Jury's Presentment. The Author could not surely mean it to invalidate the Presentment, or that the Solicitations of any Individual should authorise Grants of that Nature : whether Mr. *Johnston* did, or did not, solícite some of these Batteries, Docks or Wharfs, is no Affair of the Grand-Jury's, nor can they imagine the Public interested at all in this Particular. How few are the Conveniencies in this Harbour for Shipping in general, and for loading and unloading of Merchandises is well known to People in Business here. They hope to enjoy the Benefit of those few they actually have, in common with all his Majesty's Subjects, and it is highly probable, that under proper Regulations these Batteries, Docks, Wharfs, &c. might be kept in Repair, be further improved for His Majesty's and the publick Service, and at same Time become a Part of the Revenue.
- VII. Here the Grand-Jury have the Pleasure to find their Worships unanimous with them in the Cause of Religion. " Iniquity shall henceforth be ashamed to shew her Head, and never more appear publicly in our Streets and upon our high Places."
- VIII. The Author seems resolved that the Grand-Jury shall not oblige their Fellow-Subjects, in the Particular here so slyly hinted at: Seasonable Warning is here given, Dominion over the Purse announced, and the avenging Rod of a Fine brandished in the Face of the affrighted Jury.
- We think that in the Oath-administered to us, there was no Mention of the Ignorance, or of the Knowledge and Discernment of the Bench, and thus we cannot be answerable for either.
- IX. We may be mistaken, but it seems natural to suppose, That in a *British* Government of a Province, where no House of Assembly has been formed, that the Grand-Jury (who ought to be Men of Property and of a good Character) should be a little regarded by the Legislature for one Reason, and that is, That Informations of the Circumstances of Individuals, as well as the general Disposition and Demands of the Public, are more freely communicated to them by their Fellow-subjects; but it may be urged, whether or not is the Public to be regarded in the making of Laws; whether is its Situation or Disposition to be at all consulted? This Question we cannot indeed take upon us to determine, but we are of Opinion that it is most natural to suppose that it ought: But however that may be in other Matters, it is most of all requisite in Cases of Taxation, and in general we believe that *British* Subjects are consulted on this Head, themselves, or by their Representatives: Which, though a standing Maxim in the *British* Constitution, and almost the only one that can give it the Preference to any other in the World, for its tender Regard to the Subject, seems not to have been duly attended to in this Province; a grievous and partial Tax having been imposed and levied upon the industrious poor People

People of this Colony, just begining to emerge from the Misery into which the late War had involved them. It is natural to suppose that had the Public been duly informed of the Necessity there was for such a Tax, they would have hit upon a more proper and more able Object from whence it should have been levied; but this they never had an Opportunity of proposing, the Affair having been carried on in such a circumspect and quiet Manner, that till very lately not a great many in the Province (Taxers and Taxed excepted) knew any Thing of the Matter. The Hopes and good Wishes of the Worshipful Bench here lavished upon the Grand-Jury do really claim their particular Regard, and the Compliment paid them by their Worships, of the Want of either Influence, Interest in, or Knowledge of the Province, does not seem calculated for this Country, but for the Understandings of Foreigners who know neither the Bench nor Jury.

XI. Notwithstanding the *Abyss of Appeals*, we refer to the Presentment, which to our common Understandings does not seem to demand any Thing unreasonable, or mean Offence to any one. If a Decision has been given, for Want of proper Information, to the Prejudice of any Subject of Fifty or One Hundred Pounds, he will naturally expect to be redressed.

XII. The Ordinance itself must here be referred to; the Subject of this Presentment is more fully explained in a subsequent one made by the Protestant Members of the Jury, which cannot fail of being understood; yet we must observe that its Meaning has been already totally perverted, and Measures taken thereupon that savour much of Quixotism.

XIII. Perhaps the Methods proposed by the Jury, out of their *great Skill and Knowledge* in these Matters, might have shared the Fate of their other Presentments, but Time was not allowed them to put this to the Trial.

XIV. This Stricture being a pitiful Pun deserves no further Remark.

We come now to the Presentment made by the Protestant Members of the Jury, wherein the impannelling of Roman Catholicks upon Grand and Petty-Juries, even where two Protestants are the Parties, is complained of.—As this very Presentment has been openly and ungenerously used as a Handle to set His Majesty's old and new Subjects at Variance in this Province, we cannot help endeavouring to set the Public right in this Particular, in which they have been so grossly imposed on: What gave Birth to this Presentment, was the following short, but pithy Paragraph, in the Ordinance of the 17th Day of *September* last. "In all Tryals in this Court all his Majesty's Subjects in this Colony to be admitted on Juries without any Distinction:" This is qualifying the whole Province at once for an Office which the best and most sensible People in it are hardly able to discharge: It then occurred to the Jury that this was laying a Subject's Life, Liberty and Property too open, and that both old and new Subjects might be apprehensive of the Consequences from the unlimited Admission of Jurymen.

Jurymen. His Majesty's lately acquired Subjects cannot take it a-miss, that his ancient Subjects remonstrate against this Practice as being contrary to the Laws of the Realm of England, the Benefit of which they think they have a Right to; nor ought it to give Offence when they demand that a Protestant Jury should be impannelled when the litigating Parties are Protestants; such were the real Motives of the Presentment, and we can aver that nothing further was meant by the Quotation from the Statute.

That the Subscribers of that Presentment meant to remove every Roman Catholick from holding any Office, or filling any publick Employment, is to all Intents and Purposes a most vile, groundless Insinuation, and utterly inconsistent: Sentiments and Intentions such as these we abhor, and are only sorry that our Principles do not allow us to admit Roman Catholicks as Jurors upon a Cause betwixt two Protestants; perhaps theirs hold us in the same Light in a Case betwixt two Catholicks, and we are very far from finding Fault with them, the same Liberty that we take of thinking for ourselves we must freely indulge to others.

The subsequent Apology for Military Gentlemen's being in the Commission of the Peace, is of no great Moment, we only observe that it is not customary, and may in Time produce disagreeable Consequences.

With Respect to the Instructions and Informations of what is the proper Duty of a Grand-Jury, though it cannot be of much Use to the present; it may to the succeeding Grand-Jurors, who may perhaps discover or recollect that Grievances of a certain Nature are not to be presented, and that using a Liberty of that Kind may be deemed *highly improper, assuming, and of the most pernicious Tendency*.— But it is the Weakness of many People, that after having been obliged to assume a certain Character, they are obstinate in maintaining it agreeable to their own Notions of Rectitude, notwithstanding the Calumny and Contempt which may attend such a Practice; and the Term *ZELOT* which is generally applied derogatively does not deter all Men from persisting in what they think is right and just; yet it is a lamentable Truth, that Zeal is oftner exercised in a bad Cause than a good one; and the Reason of this is very likely, that Men are under the Necessity of exerting all their Faculties to support a bad Undertaking, whereas upon the other Hand, when they are conscious of the Justice of the Part they have taken, they become professed Quietists, and so happen what will, they console themselves with the Reflection of their having Inclinations to that which is right: But this Manner of acting, tho' it screens a Man's Character from the Imputation of Zeal, is very unmanly and unbecoming a Citizen. It is a Maxim handed down to us by the Wise Man, "That a good Name is inestimable;" but it is no less fact, That the Favour and Praises of the Foolish area Reproach. Love and Harmony are also very desirable, but these agreeable Virtues are not to be cultivated at the Expence of others.

Honour

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Honour and Respect are due to Superiors, but still nothing but the Exercise of the Duties reciprocally due from Superiors to Inferiors can exact that from the Latter: And it is a common Observation, that Superiors seldom find their Account when they insist upon their being considered as such. Some People think this a weak Argument, for this Reason, because it implies the Want of every other. It has been often observed that in Religion, and we believe it is the same in Politicks, an Abuse of the best Systems in both renders them the very worst. Happy should we be if every one in his Sphere endeavoured to preserve the Equilibrium of Prerogative and Liberty which seems to be the Quintessence of the *British* Constitution; To encourage industry, and every Attempt to usefully employ the Inhabitants of this Province; the foolish Distinction of Old and New Subjects would then totally subside, we should then act agreeable to the good Intentions of our most gracious Sovereign, who has united our Interests, and freely tendered to us all his Protection.— Sentiments such as these the Members of the Grand-Jury are determined to profess and cultivate with all His Majesty's Subjects in this Province without Distinction, and hope that any Mistakes that they have made in the Discharge of their Duty the candid Public will overlook, and at least allow them the Honor of having intended the Welfare of the Community: "For better is it to be of an humble Spirit with the Lowly, than to divide the Spoil with the Proud."

James Johnston, Peter Fancuil, Alexander Mackenzie, Thomas Story, Edward Harrison, Samuel Duncan, John Danfer, John Lymburner, Philip Payn, Edward Watts, George Fulton, Gilbert M'Randale.

To the GRAND-JURORS for the District of Quebec.

GENTLEMEN,

BE pleased to accept of the most cordial and unfeigned Thanks of the Merchants, Traders, and principal Inhabitants of the City of Quebec, for your very spirited and laudable Proceedings during the present Quarter-Session of the Peace, which are of such apparent Utility to the Well-being of this Colony, and so becoming your Duty as Jurors, and the Character of *Englishmen*, that they deservedly claim from the Public in general, and from us in particular, the highest Applause.

We can have no Doubt that your Presentments will meet with that Countenance and Redress they so justly merit: If otherwise, we beg leave to assure you, that all Opposers to Measures so salutary, will ever be regarded by us as Enemies to the Prosperity of this Infant Colony, and that we will, on all proper Occasions, cheerfully co-operate with the Grand-Jury, as yet the only Body representative of the People of this District, in remedying those Grievances, now so justly complained of, or that may hereafter come under Consideration.

If you have been deficient in Form, or exceeded the Rules usually observed by Grand-Juries in our Mother Country (which does not appear by the Nature of your Charge) the Want of a General Assembly in this Province sufficiently justifies your Conduct to the Public.

We are, with the greatest Esteem and Regard,

Quebec, 22d October, 1764.

Gentlemen, your most obliged and humble Servants,

William Mackenzie, William Brymer, Eleazar Levy, John Ord, Jacob Rowe, Wms. Conyngham, J. Shepherd, George Allsopp, Charles Grant, Marcus Whitry, Peter Fargues, Ferrar, Stephen Badly, William Holland, Calvin Gay, James Clark Minor, John A. Gaskineau, Simon Frazer, John Paterson, Thomas Venture, William Govett, John Franks, A.K. Bondfield, Chartier, Fremont, James Flanagan, Jean Bernard, John Bondfield, John Watmough, Pelissier, B. Comte, Liard, fils, Ginice, L. D. Dunier, George Gregory, Lanchlin Smith, Rottor, James Hanna, Henry Taylor, John Engelke, Donohue, Isaac Levy, Zacharie Macaulay, William Abbot, John Puris, John Renaud.

through my London there is a report that four persons of some Notary Province of Quebec would very probably desert England in 1765 — and that a total Exchange of many Tories has lately been resolved on to prevent the all dangerous travelling from a Little misunderstanding between Civil & Military establishments of Infant Colony

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